



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2404217
Applicant Name: David May
Address of Proposal: 1048 Summit Avenue East

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction of a 130 S.F. 2nd story addition to an existing single-family residence.

The following approval is required:

Variance - To expand a non-conforming structure by approximately 130 S.F. (SMC 23.42.112), to extend the structure into the front, two side, and rear yards (SMC 23.44.014, and to increase the already non-conforming lot coverage by approximately 25 S.F. (SMC 23.44.010), to allow expansion of a non-conforming structure (SMC 23.42.112).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition, or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The 2,663 square foot site is located in a Residential Single Family 5000 zone (SF 5000) and on the east side of Summit Avenue East in the Harvard-Belmont Historical District of Capitol Hill. The site is triangular/trapezoidal in shape. The existing house is two stories with a day-light basement. The Code maximum lot coverage of 1,750 s.f. is currently exceeded due to a partially below grade garage on the north portion of the site and its connection to the principal structure on the south portion of the site by a patio built above internal living space.

The applicant states that the existing house was moved to the lot around 1916. Currently, as sited, the following non-conformities exist: the house's northwest corner extends into the 5 foot front yard; most of its south side extends 2.5 feet into the required 5 foot south side yard; portions of the first floor extend 6 feet into the 10'3" rear yard as well as extend to the rear lot line; and, the first floor extends to the east property line. At the east property line the house abuts a retaining wall and the rear wall of the neighboring masonry garage. The subject site is approximately 10 feet below the existing grade to the east.

Almost one-third of the garage and portions of the northwest corner of the house are within the Summit Avenue right of way (ROW); this is permitted by an annual Street Use Permit from the Seattle Department of Transportation (SDOT).

Vicinity

The surrounding neighborhood contains a mixture of housing styles, ages and sizes. The surrounding lots generally exceed the minimum required lot size with the exception of the lot directly to the south, which is approximately 4,590 s.f. in area. The vicinity is located within the Harvard-Belmont Historic District.

Proposal Description

The applicant is seeking to add approximately 130 s.f. of building area to a structure currently exceeding allowed lot coverage (SMC 23.44.010.C) and non-conforming as to front, side and rear yard requirements (SMC 23.44.013.A, B, and C). The variance proposal asks to:

- Allow the expansion of a non-conforming structure (SMC 23.42.112):
- Allow the expansion of a non-conforming structure into:
 - The required front yard (1'6" extension of a portion of the existing structure)
 - The required side yards (1'6" extension of a portion of the 2nd story at the south side and a 5-foot extension of the 2nd story at the east side)
 - The required rear yard (1'6" extensions of the 2nd story at the east and south sides and a 5-foot extension of the second story at the east side)

Public Comments

The 14-day public comment period ended September 15, 2004. No comment letters were received.

ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The subject property has the following unusual conditions: an approximately 2,663 square foot area in a SF 5000 zone combined with a triangular/trapezoidal shape that constrains the typical buildable area of a lot of this size and in this zone, and a location in a older and historical neighborhood where many of the surrounding structures are non-conforming to numerous Land Use regulations (lot coverage, buildings in required yards and built to the property line, for example). These conditions establish a neighborhood context for structure siting and size in relation to adjoining properties and the street. The strict application of the Land Use Code under these conditions would prevent the enjoyment of normal land use privileges allowed in the same zone and vicinity.

The triangular/trapezoidal shape of the lot provides a constrained area to build a conventionally shaped structure now and at the time of the current structure's construction and placement on the lot. Consequently, the structure was placed at the wider southern end of the lot and in the required yards. This occurred prior to the current Land Use Code's minimum front, side, and rear yard depth requirements. In fact, the constraint of the lot's buildable area by its size and shape has resulted in a portion of the principle structure's northwest corner and porch, portions of the patio, and almost one-third of the garage to be built within the public right of way (ROW).¹

The immediate surroundings of the subject property present an unusual condition. The eastern property boundary, which borders both a required side yard and the required rear yard, contains a masonry retaining wall topped by the rear masonry wall of a large carriage house/garage. In this area over two-thirds of the existing first floor eastern façade is built to the property boundary and retaining wall.

¹ Apparently this was allowed by the City at the time of construction. A yearly Street Use Permit is currently in effect allowing the continuation of this use. A variance was granted to allow the expansion of these non-conforming uses (May 2000, MUP 9905688).

The surrounding neighborhood is substantially comprised of older and similarly aged structures, many with excessive lot coverage and with portions of the structure within now required yards. Many are built to the property lines, such as the carriage houses along the site's north and east property lines. These non-conforming structural conditions are de facto privileges enjoyed by other properties in the vicinity. They are also unique features that establish the character of the Harvard – Belmont Historical District.

The residence under examination has existing structural non-conformities in all yards. The strict application of the Land Use Code to the requested minimal structural additions would prohibit their construction and thus deprive the property of privileges enjoyed by other properties in the same zone, vicinity and Historic District.

2. ***The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Relief is sought from the strict application of the current Land Use Code's yard and lot coverage requirements to a property constrained by size and shape and developed under a previous Land Use Code, which subsequently created these non-conformities.

An alternative to the proposed additions would be to add an additional floor to portions of the structure's east and south sides to gain additional space. These additions would not coincide with the current living spaces nor address the aim of the modifications proposed. The addition of upper story area would create a conflict with the preservation aims of the Harvard-Belmont Historic District, which are to substantially maintain the architectural style of existing building. The additions as proposed are a minimum and architecturally appropriate alternative to other allowed additions that would have a greater and possibly negative affect on the character of the neighborhood.

The requested variances are to permit actions that are normally allowed by other properties in the vicinity and same zone. The front window addition is behind the vertical plane of the existing roof eave. The south window and associated space are also behind the eave plane. The east side room addition is no larger than the existing first floor room below it. If the house had not been sited within today's required yards, a variance would not be necessary for any of these proposals.

3. ***The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

There would be no impact on the other properties or improvements in this zone or vicinity, nor detriment to the public welfare by granting these requests. The additions are minor in scope. The east side addition will be within the east side yard and partially in the rear yard between the existing second story wall and the rear wall of the zero lot line masonry garage of the adjoining property. This area is not visible from the street, from the adjacent garage property and minimally visible from the property to the south. The south side addition will not extend as far as the existing chimney or the eave vertical plane. It will not be visible from the street or add

additional glazing and hence visibility into the adjacent property to the south. The front addition is a bay window that will not protrude beyond the existing eave plane. All additions will be architecturally integrated with the historical design of the structure. They will have no impact on the surrounding properties.

Several purposes of the yard requirements in the single family zones are to protect the public welfare by assuring the provision of light, air, and privacy. The existing condition of the zero lot retaining and garage wall combined with their almost 26 foot height renders these purposes inapplicable here. The second floor addition to the south façade minimally extends beyond the existing first floor façade, but not the chimney, and hence similarly does not affect the applicable public welfare goals.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

The literal interpretation of the applicable Land Use Code provisions to this property would not allow the existing structure to be configured and sited as is. This conflict between the historical siting and design of the structure and the Land Use Code's later provisions and requirements, which are more applicable to new construction, create a situation whereby minor additions, such as proposed, are not allowed through strict Code application. This then creates an undue hardship for the owner of a house sited in a now non-conforming location on an unusually shaped and undersized lot.

Because of this circumstance, the only Code allowed expansion of the house would be to add a portion of another story along the south and part of the structure's east side. Expansion of these areas would be much greater in visual scale than the proposed minor relatively additions, would change the roof line, bulk, massing, and character of this unique structure, and cause practical difficulties for the owners by ultimately not adding the space to where it is needed.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.*

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the intent and purpose of the Code is to assure compatibility of uses within a zone and preservation of neighborhood character.

The siting of this structure and platting of this lot occurred before the adoption of the current Land Use Code. This variance application seeks to reconcile the conflict between the intent of the Land Use Code and the desire to make minor additions to a house made non-conforming by later adopted Codes.

The proposed additions are consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable. Additionally, the proposed changes must be reviewed and approved by the Harvard Belmont Historic District Review Board, thus further assuring consistency with the Land Use Code and regulations for the neighborhood.

DECISION - VARIANCE

Based on the above findings and analysis all of the facts and conditions stated in the numbered criteria of SMC 23.40.020, *Variances*, are found to exist, therefore:

1. A variance to allow the expansion of a non-conforming structure into the required front yard (1.5 foot extension of a bay window) is **Conditionally Approved**.
2. A variance to allow the expansion of a non-conforming structure into the required side yards (1.5 foot extension of a portion of the structure's second floor at the south side and 5 foot extension of a portion of the structure's second floor on the east side) is **Conditionally Approved**.
3. A variance to allow the expansion of a non-conforming structure into the required rear yard (1.5' extension of a portion of structure's second floor on the south and east sides) is **Conditionally Approved**.
4. A variance to allow an increase in the already non-conforming lot coverage of the structure (an additional 25 S.F. for the areas described in 2 and 3 above) is **Conditionally Approved**.
5. A variance to allow expansion of a non-conforming structure is **Conditionally Approved**.

CONDITIONS – VARIANCE

Prior to Issuance of any Building Permit for the Above Described Work and for the Life of the Project:

1. The additions shall be shown on approved building plans and maintained as approved in this Master Use Permit, and shall not be altered without the approval of the Land Use Planner.

Signature: (signature on file) Date: December 6, 2004
Art Pederson, Land Use Planner